

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA  
ORPHANS' COURT DIVISION**

**IN RE:** : **NO. 2021-6731**  
:   
**ADOPTION OF** :   
**AS,** :   
:   
**minor child** :

**OPINION AND ORDER**

**AND NOW**, this 10<sup>th</sup> day of **May, 2021**, before the Court is a Petition for Involuntary Termination of Parental Rights filed by JH and CH on January 20, 2021. Said petition is with regard to the paternal rights of AS, born October 9, 2017. JH and CH seek to terminate the parental rights of the child's biological mother, MS, and father, JC, as a prerequisite to adopting the child. On February 16, 2021, an Order was entered appointing Dance Drier, Esquire, as counsel for MS. On March 26, 2021, an Order was entered appointing Trisha Hoover Jasper, Esquire, as counsel for JC. Angela Lovecchio, Esquire, was appointed as counsel for the Child.

A hearing on the Petition to Involuntarily Terminate MS's and JC's parental rights was held on May 3, 2021. JH and CH appeared with their counsel, Jason Lepley, Esquire. MS appeared with her counsel, Dance Drier, Esquire. JC failed to appear despite his appointed counsel indicating that she had made multiple attempts to contact him with regard to this matter. The Court was satisfied that JC had sufficient notice of the hearing and therefore excused Attorney Jasper from the proceeding. Angela Lovecchio, Esquire, counsel for AS, was also present at the hearing.

### **Finding of Facts**

1. AS ("Child") was born on October 9, 2017. The Child currently resides with JH and her husband CH (collectively, "JH and CH") at 283 Green Valley Road, Hughesville, Pennsylvania.

2. The Child's biological father is JC ("Father"). Father's last known address is 109 Elm Street, Selinsgrove, Pennsylvania.

3. The Child's biological mother is MS ("Mother"). Mother is currently residing at 101 Boak Avenue, Lot 4, Hughesville, Pennsylvania.

4. At the time of Child's birth, Mother and Father were not married, nor have they ever been married.

5. At the time of the Child's birth, Mother was living with JH ("Great-Grandmother"), who was known at the time as JH.

6. On October 23, 2017, Mother filed a Complaint for Custody and named Great-Grandmother as the Defendant. Father was not listed in the Petition.

7. On February 20, 2018, after a custody conference, an Order was entered granting Mother and Great-Grandmother shared legal and physical custody of the Child.

8. On February 8, 2019, Great-Grandmother filed a Petition for Emergency Custody, alleging that Mother was making plans to take the Child and move in with Father and her mother. The Petition also alleged that Mother had to be told when to feed and change the Child. The Petition was denied, as the allegations were more appropriate for a Petition for Modification.

9. On February 21, 2019, Mother filed a Petition for Modification of Custody, requesting primary custody of the Child. Additionally, the Petition requested that Father have partial physical and shared legal custody of the Child.

10. Following a custody conference, it was noted that Great-Grandmother objected to the transfer of custody to Mother and Father, and Children and Youth Services indicated concerns that Mother lacked sufficient protective capacity for the Child to be safe in her care. An issue was raised about Father being an indicated perpetrator of child abuse against one of his other children.

11. On March 2, 2020, at a time scheduled for a custody trial, the parties reached an interim agreement. Under the interim Order, Mother and Great-Grandmother shared legal custody, with the obligation to keep Father informed of decisions made on behalf of the Child. Great-Grandmother was granted primary physical custody of the Child. Mother was granted visitation in the community every Friday from 1:00 p.m. until 3:00 p.m., to be supervised by Great-Grandmother. Father was granted visits supervised by Children and Youth every other Thursday for one hour.

12. Another trial was scheduled for October 5, 2020, to further review the custody schedule. At that time, the parties agreed to keep the physical custody the same, except that if Mother had a conflict with her work schedule, her visits could be on alternate days as the parties agreed and Father's visits were to be conducted via video chat which were to be supervised by Great-Grandmother, at times agreed upon by Father and Great-Grandmother.

13. Despite a Court Order directing them to do so, neither Mother nor Father ever reached out to Attorney Lovecchio, Esquire, counsel for the Child, during this process.

14. When Mother was living with Great-Grandmother, she had to be prompted to feed and change the Child, and would often wait an additional 10-15 minutes after being told to do so because she was playing on her phone.

15. Great-Grandmother takes the Child to all his medical appointments. Instead of asking about the appointments, Mother waits for Great-Grandmother to volunteer information.
16. Mother was exercising her visits at a local park or mall until recently when she switched to video visits due to it being cold and rainy, or not feeling well.
17. Father's last video visit with the Child was on October 22, 2020.
18. Neither Mother nor Father have ever contacted the JH and CH to request additional time with the Child.
19. Neither Mother nor Father have paid any financial support to the JH and CH informally or through a court order, for the care they have provided for the Child.
20. The Child has lived in the JH and CH's home since his birth. It is the only home he has ever known.
21. The Child is very bonded with the JH and CH. He calls Great-Grandmother "Nana," "Mom," or "Mama." He calls CH "Papa" or "Daddy."
22. The JH and CH have provided for all of Child's physical and emotional needs continuously since his birth.
23. The JH and CH are ready, willing, and able to adopt the Child.

### **Discussion**

The JH and CH argue that the basis for termination in this case may be found in 23 Pa.C.S. §2511(a)(1), which provides as follows:

#### §2511. Grounds for Involuntary Termination

(a) GENERAL RULE.--The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

- (1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused

or failed to perform parental duties.

A court may terminate parental rights under Section 2511(a)(1) where a parent demonstrates a settled purpose to relinquish parental claim to a child **or** fails to perform parental duties for at least six months prior to the filing of the termination petition. **In the Interest of C.S.**, 761 A.2d 1197, 1201 (Pa. Super. 2000). When determining whether to terminate the rights of a parent, the Court should consider the entire background of the case and not simply:

mechanically apply the six month statutory provision. The court must examine the individual circumstances of each case and consider all explanations offered by the parent facing termination of his . . . parental rights, to determine if the evidence, in light of the totality of the circumstances, clearly warrants the involuntary termination.

**In re: B.N.M.**, 856 A.2d 847, 855 (Pa. Super. 2004), appeal denied, 582 Pa. 718, 872 A.2d 1200 (2005) citing **In re: D.J.S.**, 737 A.2d 283, 286 (Pa. Super. 1999).

In determining what constitutes parental duties, the Pennsylvania Supreme Court has said:

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These needs, physical and emotional, cannot be met by a merely passive interest in the development of the child. Thus, this Court has held that the parental obligation is a positive duty which requires affirmative performance. This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child. Because a child needs more than a benefactor, parental duty requires that a parent "exert himself to take and maintain a place of importance in the child's life."

With these principles in mind, the question whether a parent has failed or refused to perform parental duties must be analyzed in relation to the particular circumstances of the case. A finding of abandonment, which has been characterized as "one of the most severe steps the court can take," will not be predicated upon parental conduct which is reasonably explained or which resulted from circumstances beyond the parent's control. It may only result when a parent has failed to utilize all available resources to preserve the parental

relationship.

**In re: Burns**, 379 A.2d 535, 540 (Pa. 1977)(citations omitted).

The Court finds as of the date the Petition for Involuntary Termination of Parental Rights was filed, both Mother and Father failed to perform their parental duties for a period well in excess of six (6) months. Additionally, although Mother testified that she eventually wants the Child - as well as her other two children who are the subject of separate termination of parental rights/adoption cases – to live with her, her actions have shown otherwise and this Court finds that she has evidenced a settled purpose to relinquish parental claim to the Child. The Court also finds Father has evidenced a settled purpose to relinquish his parental claim to the Child.

A parent has an affirmative duty to take an active role in a child's life. Neither Mother nor Father has satisfied this obligation. In order to satisfy her obligation to perform parental duties, Mother would have to ensure that the Child was properly fed and had good hygiene, provide stable housing, make and attend medical appointments, provide financial support for the Child, and comfort him when he was sick or scared. When Mother was in the home, Great-Grandmother would have to prompt her to feed and change the Child, and it would still take 10-15 additional minutes before Mother got off her phone to tend to the Child's needs. Since moving out of Great-Grandmother's home, Mother has not performed parental duties with any regularity.

Great-Grandmother testified that she and Mother set up WIC for the Child after his birth. When Mother got food stamps, she would occasionally buy some items for the Child. Other than that, Mother has not paid any financial support to the JH and CH to assist them in raising her Child, either through purchasing basic necessities for the Child or by providing cash payments to the JH and CH to be used for the benefit of the

Child. When asked why she had not provided any financial support for the Child, Mother first responded by stating “they never asked,” but also acknowledged it was her duty to do so. Mother testified that she did buy other items and gifts for the Child, but did not give them to the JH and CH because she believed they would not allow the Child to wear any clothes or play with any toys she purchased. Her assertion that she purchased these items for use/wear in her home was ironic, given the fact that Mother very rarely exercised her periods of custody in-person. Interestingly, Mother indicated that she received a stimulus check for the Child. She testified that she deposited the check in an account that she “can’t touch” but could not provide the name of the bank or proof of the deposit or account balance. Mother never offered to give the stimulus money to the JH and CH for the benefit of the Child. This Court finds that Mother has failed to perform her parental duties for well in excess of 6 months and the Child has had to rely on the JH and CH to provide for all of his physical and emotional needs for nearly his whole life.

Father also has not performed any parental duties for the Child. Father has never purchased clothes, food, or diapers for the Child. He has never made the Child a meal or given him a bath. He has failed to provide any financial support for the benefit of the Child. He has not attended any medical appointments for the Child. He has never comforted him when he was sick or scared. In short, Father has utterly failed to perform any parental duties at all since the Child’s birth.

This Court further finds that the JH and CH have established that both Mother and Father have evidenced a settled purpose of relinquishing parental claim to the Child. The Child has lived with Great-Grandmother since he was discharged from the hospital after his birth. Great-Grandmother testified that while she was living there,

Mother would occasionally take off for a day or a couple of days. Mother would just leave without asking Great-Grandmother to care for the Child. When she left Great-Grandmother's home, she attempted to take the Child with her, but was prevented from doing so by the custody Order. Mother bounced around to several residences, including her mother's home. Mother testified that she has lived in a 3 bedroom trailer since March of 2020 and has a "written agreement" with the owner. Although speculation was raised about others living in or staying at the trailer, Mother testified that she lives alone and that she filed a Petition for Modification of Custody with the expectation that she would reside there with all three of her children. Mother testified that she would like custody every other weekend "to prove to people she can be a mom."

However, Mother has had many years to "prove to people she can be a mom" and has intentionally chosen to prioritize other things in her life. Mother has continued to have a period of physical custody for only two hours each week. Although Mother did file a Petition to Modify Custody in an attempt to gain additional custodial time with the Child, on both occasions that she was before the Court for a trial, Mother reached an agreement to maintain the same period of two hours per week. Despite having no court-ordered restrictions on in-person visits, Mother chose to exercise the majority of her custody time via FaceTime, which is not conducive to establishing and maintaining a bond with the Child. During these FaceTime calls, Mother rarely took advantage of the full 2 hours she was allotted and often did not call at all. Notably, Mother has never reached out to counsel for the Child during the pendency of the adoption matter. When questioned about her refusal to do this, despite being directed to by Court order, Mother testified that she was "busy getting a job and cleaning her home getting it ready for her kids."



This Court finds that what was originally an arrangement between Mother and Great-Grandmother to provide some temporary support and assistance for the Child has evolved into the JH and CH fulfilling all the responsibilities of being a parent to the Child. Mother has taken very few steps, if any, to regain custody of the Child. Mother testified that she is supposed to be “100% stable” before she can take care of kids, but the simple fact that Mother has done nothing at all to expand her custodial time despite having two jobs and living in the same three bedroom trailer for over a year is indicative of her evidencing a settled purpose to relinquish claim to the Child.

Father’s periods of custody under the controlling custody Order were to be via video chat only, and at times as Father and Great-Grandmother can agree. His visits were not consistent, and at times he did not call during his allotted time. He has had absolutely no contact with the Child since October 22, 2020. He did not call the Child on Christmas or purchase any gifts for him. He has not reached out to the JH and CH to inquire about the Child’s health or well-being. He has not petitioned the Court to increase his visits with the Child, or to change the visits to in-person rather than via video chat. Despite having proper notice and multiple attempts by his appointed counsel to contact him, Father failed to appear at the hearing on the Petition for Involuntary Termination of Parental Rights. All of these factors have contributed to the Court’s finding that Father has evidenced a settled purpose to relinquish parental claim to the Child.

This Court finds that grounds for termination of both Mother’s and Father’s parental rights exist under 23 Pa.C.S. §2511(a). As the statutory grounds for termination have been met, the Court must also consider the following:

23 Pa.C.S. § 2511(b) OTHER CONSIDERATIONS.—The Court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

The Court must take into account whether a bond exists between the child and parent, and whether termination would destroy an existing, necessary and beneficial relationship. **In the Interest of C.S.**, *supra*, at 1202. When conducting a bonding analysis, the Court is not required to use expert testimony. **In re: K.K.R.-S.**, 958 A.2d 529, 533 (Pa. Super. 2008) (citing **In re: I.A.C.**, 897 A.2d 1200, 1208-1209 (Pa. Super. 2006)). “Above all else . . . adequate consideration must be given to the needs and welfare of the child.” **In re: J.D.W.M.**, 810 A.2d 688, 690 (citing **In re: Child M.**, 681 A.2d 793 (Pa. Super. 1996), appeal denied, 546 Pa. 674, 686 A.2d 1307 (1996)).

Before granting a petition to terminate parental rights, it is imperative that a trial court carefully consider the *intangible* dimension of the needs and welfare of a child--the love, comfort, security and closeness--entailed in a parent-child relationship, as well as the tangible dimension. Continuity of relationships is also important to a child, for whom severance of close parental ties is usually extremely painful. The trial court, in considering what situation would best serve the children’s needs and welfare, must examine the status of the natural parental bond to consider whether terminating the natural parents’ rights would destroy something in existence that is necessary and beneficial.

**In the Interest of C.S.**, *supra.*, at 1202 (citations omitted).

In the present case, the Court finds that there was no evidence presented regarding a bond between the Child and Father. Given Father’s limited contact with the Child over the course of his life, and the fact that he has not had any contact with him in over six months, this Court finds that there is not a necessary and beneficial bond

between Father and Child. If any bond whatsoever exists between Father and the Child, the severance of that bond will not cause the Child irreparable harm in light of the strong and stable bond the Child has developed with the JH and CH, who have been his parental figures and provided him with stability and security in the only home he has ever known.

Additionally, there was very little evidence presented of any bond between the Child and Mother. Although there was testimony that he does call Mother “Mommy,” Mother is not a “mom” to the Child in the traditional sense of the word. The Child sees Mother not as protector/provider of basic needs, but rather as a friend who occasionally does fun things with him. The existence of some bond with Mother does not necessarily defeat termination of her parental rights. In re K.Z.S., 946 A.2d, 753, 764 (Pa.Super. 2008). The question becomes whether the bond between the Child and Mother is the *one worth saving* or whether it could be sacrificed without irreparable harm to the Child. Id. (emphasis added). Termination of Mother’s rights would not destroy an existing necessary and beneficial relationship as the bond, if any, between Mother and Child is not anywhere near as strong as the bond between Child and the JH and CH. There was copious evidence that the Child is very bonded with the JH and CH, with whom he has lived his entire life. It is the JH and CH, and not Mother, who have provided love, guidance, and support for the Child in addition to fulfilling his basic physical needs. It is evident to the Court that the JH and CH deeply love and care for the Child and to remove him from the only home he has ever known would disrupt his sense of security. The JH and CH have stepped in and assumed the parental responsibilities that Mother has utterly failed to perform and has evidenced a settled purpose of relinquishing.

The Court is satisfied that the bond between the Child and the JH and CH is the primary bond to protect. Mother raised an objection to the appropriateness of the JH and CH adopting the Child due to their age and physical health. However, this Court notes that Mother had no issues allowing the JH and CH care for the Child and keep him safe prior to the filing of the Petition for Adoption. The JH and CH have a strong support system and have proven themselves capable of raising a young child. The JH and CH understand the rights and responsibilities associated with adopting the Child. The Court finds that termination of Mother's and Father's parental rights and allowing the adoption by the JH and CH to proceed is in the best interest of the Child.

**Conclusions of Law**

1. The Court finds that JH and CH have established by clear and convincing evidence that MS's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1).

2. The Court finds that JH and CH have established by clear and convincing evidence that JC's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1).

3. The Court finds that JH and CH have established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of AS will best be served by termination of MS's parental rights.

4. The Court finds that JH and CH have established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of AS will best be served by termination of JC's parental rights.

Accordingly, the Court will enter the attached Decree.

By the Court,

Joy Reynolds McCoy, Judge

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA  
ORPHANS' COURT DIVISION**

**IN RE:** : **NO. 2021-6731**  
:   
**ADOPTION OF** :   
**AS,** :   
:   
**minor child** :

**DECREE**

**AND NOW**, this 10<sup>th</sup> day of **May, 2021**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of MS, held on May 3, 2021, it is hereby ORDERED and DECREED:

- (1) That the parental rights of MS be, and hereby are, terminated as to the child above-named;
- (2) That the welfare of the child will be promoted by adoption; that all requirements of the Adoption Act have been met; that the child may be the subject of adoption proceedings without any further notice to the natural mother.

**NOTICE TO NATURAL PARENTS**  
**PENNSYLVANIA ADOPTION MEDICAL HISTORY REGISTRY**

This is to inform you about an adoption law provision relating to medical history information. As the birth parent of a Pennsylvania born child who is being, or was ever adopted in the past, you have the opportunity to voluntarily place on file medical history information. The information which you choose to provide could be important to this child's present and future medical care needs.

The law makes it possible for you to file current medical information, but it also allows you to update the information as new medically related information becomes available. Requests to release the information will be honored if the request is submitted by a birth child 18 years of age or older. The law also permits that the court honor requests for information submitted by the adoptive parents or legal guardians of adoptees who are not yet 18 years of age. All information will be maintained and distributed in a manner that fully protects your right to privacy.

You may obtain the appropriate form for you to file medical history information by contacting the Adoption Medical History Registry. Registry staff are available to answer your questions. Please contact them at:

Department of Public Welfare  
Pennsylvania Adoption Information Registry  
P.O. Box 4379  
Harrisburg, PA 17105-17111  
Telephone: 1-800-227-0225

Medical history information forms may also be obtained locally by contacting one of the following agencies:

1. County Children & Youth Social Service Agency
2. Any private licensed adoption agency
3. Register & Recorder's Office
4. Online at [www.adoptpakids.org/Forms.aspx](http://www.adoptpakids.org/Forms.aspx)

By the Court,

Joy Reynolds McCoy, Judge

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA  
ORPHANS' COURT DIVISION**

**IN RE:** : **NO. 2021-6731**  
: :  
**ADOPTION OF** : :  
**AS,** : :  
: :  
**minor child** : :

**DECREE**

**AND NOW**, this 10<sup>th</sup> day of **May, 2021**, after a hearing on the Petition for Involuntary Termination of the Parental Rights of JC, held on May 3, 2021, it is hereby ORDERED and DECREED:

- (1) That the parental rights of JC be, and hereby are, terminated as to the child above-named;
- (2) That the welfare of the child will be promoted by adoption; that all requirements of the Adoption Act have been met; that the child may be the subject of adoption proceedings without any further notice to the natural father.

**NOTICE TO NATURAL PARENTS**  
**PENNSYLVANIA ADOPTION MEDICAL HISTORY REGISTRY**

This is to inform you about an adoption law provision relating to medical history information. As the birth parent of a Pennsylvania born child who is being, or was ever adopted in the past, you have the opportunity to voluntarily place on file medical history information. The information which you choose to provide could be important to this child's present and future medical care needs.

The law makes it possible for you to file current medical information, but it also allows you to update the information as new medically related information becomes available. Requests to release the information will be honored if the request is submitted by a birth child 18 years of age or older. The law also permits that the court honor requests for information submitted by the adoptive parents or legal guardians of adoptees who are not yet 18 years of age. All information will be maintained and distributed in a manner that fully protects your right to privacy.

You may obtain the appropriate form for you to file medical history information by contacting the Adoption Medical History Registry. Registry staff are available to answer your questions. Please contact them at:



Department of Public Welfare  
Pennsylvania Adoption Information Registry  
P.O. Box 4379  
Harrisburg, PA 17105-17111  
Telephone: 1-800-227-0225

Medical history information forms may also be obtained locally by contacting one of the following agencies:

1. County Children & Youth Social Service Agency
2. Any private licensed adoption agency
3. Register & Recorder's Office
4. Online at [www.adoptpakids.org/Forms.aspx](http://www.adoptpakids.org/Forms.aspx)

By the Court,

Joy Reynolds McCoy, Judge